

Message Text

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PAGE 01 NEW DE 14780 191259Z
ACTION NEA-10

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TO SECSTATE WASHDC 6809
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UNCLAS NEW DELHI 14780

E.O. 11652: N/A
TAGS: PDIP AGLM IN
SUBJECT: BOMBAY HIGH COURT RULES AGAINST IMMUNITY TO
FOREIGN GOVERNMENT IN COMMERCIAL TRANSACTIONS

FOLLOWING SENT ACTION NEW DELHI INFO CALCUTTA MADRAS FROM BOMBAY
OCT 18 IS REPEATED

QUOTE
UNCLAS BOMBAY 2552

EO 11652: N/A
TAGS: PDIP ACLM IN
SUBJ: BOMBAY HIGH COURT RULES AGAINST IMMUNITY TO
FOREIGN GOVERNMENT IN COMMERCIAL TRANSACTIONS

1. ACCORDING TO THE TIMES OF INDIA (OCTOBER 18), THE BOMBAY
HIGH COURT HAS RULED THAT COMMERCIAL TRANSACTIONS OF
FOREIGN GOVERNMENT OR ITS AGENCIES OPERATING IN INDIA
FALL WITHIN THE JURISDICTION OF THE INDIAN COURTS.
THE RULING WAS GIVEN BY JUSTICE C.T. DIGHE IN THE CASE DEPARTMENT
OF LABOR AND EMPLOYMENT, GOVERNMENT OF INDIA VERSUS
CZECHOSLOVAKIAN AIRLINES(CA).

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2. DEPARTMENT OF LABOR HAD CHARGE SHEETED CA FOR FAILING TO
MAINTAIN MUSTER ROLLS AND WAGE REGISTERS AS REQUIRED BY THE
AIR TRANSPORT SERVICES RULES. CA MADE AN APPLICATION TO THE
CHIEF METROPOLITAN MAGISTRATE, BOMBAY, THAT SINCE IT IS AN
ENTITY OF THE CZECH GOVERNMENT, IT IS IMMUNE FROM THE
JURISDICTION OF COURTS IN INDIA. THE MAGISTRATE ACCEPTED THE
APPLICATION AND DISCHARGED THE CASE. THE DEPARTMENT OF

LABOR THEN MOVED TO THE HIGH COURT ON A PLEA THAT THE TRADITIONAL DOCTRINE OF ABSOLUTE IMMUNITY RELATING TO COMMERCIAL TRANSACTIONS IS OUTDATED AND REPLACED BY DOCTRINE OF RESTRICTIVE IMMUNITY.

3. ACCORDING TO THE TIMES, THE JUDGE, WHILE CONCEDING IMMUNITY TO FOREIGN GOVERNMENTS IN DISPUTES INVOLVING LEGISLATIVE AND INTERNATIONAL TRANSACTIONS, RULED THAT COMMERCIAL TRANSACTIONS OF A FOREIGN GOVERNMENT OR ITS AGENCIES FELL WITHIN THE TERRITORIAL AMBIT OF INDIAN COURTS AND THERE WAS NO CASE FOR GRANTING IMMUNITY. HE REMANDED THE CASE FOR TRIAL. ROSENTHAL

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Message Attributes

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